

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSEPH GILLUM dba J&B LOGSTACKERS,

Plaintiff,

v.

THE BURLINGTON INSURANCE
COMPANY,

Defendant.

No. 3:21-cv-05826

NOTICE OF REMOVAL

Defendant The Burlington Insurance Company (“TBIC”) hereby gives notice of the removal of the above-entitled civil action from the Superior Court of the State of Washington for the County of Clark to the United States District Court for the Western District of Washington, Tacoma Division. TBIC removes this case pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 on the grounds described below.

I. INTRODUCTION

Plaintiff Joseph Gillum dba J&B Logstackers’ (“Gillum’s”) state court complaint is removable. The parties are diverse, and the amount in controversy exceeds \$75,000. TBIC therefore files this notice of removal.

II. STATEMENT OF FACTS

1. Gillum filed suit on October 12, 2021, in the Superior Court of the State of Washington for the County of Clark and as case no. 21-2-01944-06.

2. Gillum alleges that he was sued in an action pending in the Circuit Court of the State of Oregon for the County of Multnomah, case no. 21CV03995 (the “Underlying Action”).

3. Gillum asserts that TBIC issued to him an insurance policy that provides coverage for the defense of the Underlying Action. Gillum claims that TBIC breached the insurance policy by refusing to defend Gillum. Gillum asserts that he is entitled to damages related to the alleged breach, and that he is entitled to a declaratory judgment that TBIC has a duty to defend Gillum in relation to the Underlying Action, and that TBIC is liable for all reasonable defense costs that Gillum incurs.

4. TBIC is entitled to remove this action under 28 U.S.C. § 1332 because complete diversity of citizenship exists and the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1446(a) (requiring a “short and plain statement of the grounds for removal”).

III. REMOVAL IS TIMELY

5. This civil action was filed on October 12, 2021, in the Superior Court of the State of Washington for the County of Clark and was pending in that state court as case no. 21-2-01944-06 at the time of this removal. TBIC was served copies of the Summons and Complaint on October 21, 2021. Removal is therefore timely because this Notice of Removal is being filed within 30 days of the service of the summons and complaint. 28 U.S.C. § 1446(b)(1); *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354-56 (1999) (“[I]f the summons and complaint are served together, the 30-day period for removal runs at once.”).

IV. DIVERSITY JURISDICTION EXISTS

A. Diversity of Citizenship Exists

6. Under 28 U.S.C. § 1332(a)(1), this Court has jurisdiction over a civil action “where the matter in controversy exceeds the sum or value of \$75,000 . . . and is between—(1) citizens of different states.”

7. This case satisfies the complete diversity requirement. A person’s state of domicile determines their state citizenship. *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001). For diversity purposes, “a corporation shall be deemed to be a citizen of every

State . . . by which it has been incorporated and of the State . . . where it has its principal place of business. 28 U.S.C. § 1332(a)(1). A corporation's principal place of business is "where a corporation's officers direct, control, and coordinate the corporation's activities." *Hertz Corp. v. Friend*, 559 U.S. 77, 92-93 (2010).

8. On information and belief, Gillum is a citizen of the State of Washington.

9. TBIC is, and all times material hereto has been, incorporated under the laws of Illinois, with its principal place of business in Hartford, Connecticut.

10. Because Gillum and TBIC are citizens of different states, the diversity requirement is satisfied.

B. The Amount in Controversy Exceeds \$75,000

11. The amount in controversy is not expressly set forth in Gillum's Complaint. However, Plaintiff seek relief "in an amount to be determined at trial plus prejudgment interest," Compl. ¶ a, as well as "J&B future defense costs" and "all reasonable attorney fees and costs incurred related to this action." Compl. ¶ b.

12. The underlying litigation in which Plaintiff seeks Defendant to defend is for "an amount in excess of \$351,046.79." Compl. Ex. 1, at 12.

13. Taking these factors into consideration, TBIC has a good faith belief that Gillum seeks damages and other recoveries counting towards the jurisdictional minimum in excess of \$75,000.

V. THE SERVED DOCUMENTS ARE ATTACHED

14. Pursuant to Local Civil Rule 101(b), a copy of the operative complaint (the "Complaint") is separately attached to this Notice as **Exhibit A**. Copies of all process, pleadings, and orders served on Defendant, except the Complaint, are attached to this Notice as **Exhibit B**. See 28 U.S.C. § 1446(a).

VI. NOTICE WILL BE PROVIDED TO THE STATE COURT

15. Promptly after filing this Notice of Removal, Defendant will give written notice to Plaintiff's counsel and will file a copy of this Notice with the Clerk of the Clark County Superior Court as required under 28 U.S.C. § 1446(d).

Defendant therefore requests the removal of the above-referenced action from the Superior Court of the State of Washington, in and for the County of Clark, and requests that further proceedings be conducted in this Court as provided by law.

DATED this 10th day of November, 2021.

Davis Wright Tremaine LLP
Attorneys for The Burlington Insurance
Company

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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the document to which this Certificate of Service is attached to be served in the manner as indicated below:

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Declared under penalty of perjury under the laws of the State of Washington.

DATED at Portland, Oregon this 10th day of November, 2021.

/s/ Renée M. Robillard

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